

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

-----X
THIRD CHURCH OF CHRIST, SCIENTIST, :
OF NEW YORK CITY, :

Plaintiff, :

- against - :

THE CITY OF NEW YORK and PATRICIA :
J. LANCASTER, in her official capacity as, :
Commissioner of the New York City :
Department of Building, :

Defendants. :

-----X

File No. 07 Civ. 10962 (DAB)

**SUPPLEMENTARY AFFIDAVIT AND EXHIBITS
OF RIVERSIDE CHURCH
IN OPPOSITION TO MOTION TO COMPEL
- RE: PRE-1961 CATERING -**

PATTON, EAKINS, LIPSETT, HOLBROOK & SAVAGE
Attorneys for Riverside Church
420 Lexington Avenue, Suite 2805
New York, New York 10170
Tel.: (212) 867-8280

#613211

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SUPPLEMENTARY
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IN OPPOSITION TO MOTION TO COMPEL
Re: PRE-1961 CATERING

File No. 07 Civ. 10962 (DAB)

STATE OF NEW YORK)
 : s.s.:
COUNTY OF NEW YORK)

DELBERT GLOVER, being duly sworn, deposes and says that:

1. I am the Chief Administrative Officer of the Riverside Church and make this supplementary affidavit in response to the request by this Court at a hearing on July 10, 2008, for information as to any pre-1961 catering activities carried on at the Riverside Church and other interested parties.

2. As noted at that hearing by the attorney for defendant New York City, changes in the zoning laws were adopted in 1961. I am informed that if a church carried on catering activities for events prior to the adoption of the 1961 zoning change, and currently carries on such catering

activities, the current catering activities by those churches may be grandfathered and may not be subject to review by the Buildings Department or other City agency. In such a case, such current catering activities by such a church would be irrelevant to the discrimination claims of the plaintiff herein.

3. In fact, Riverside Church's records show that it did engage a caterer in 1960, before the zoning law change. Attached as Exhibit A is a copy of the letter agreement dated May 17, 1960, between the Riverside Church and Blaikie, Miller & Hines, Inc., a food service management firm, for the Blaikie firm to provide catering services for Riverside Church, commencing September 15, 1960 and continuing until terminated by either party by 60 days written notice. Although the attached copy of the agreement does not include a signature on behalf of the Riverside Church, calendar entries retrieved from Riverside's archives (set forth in the attached Exhibit B) show that at a meeting on June 9, 1960, the Blaikie Miller & Hines agreement for catering services was approved, and that at a meeting on May 10, 1962 possible termination of that contract was considered.

4. Attached as Exhibit C is the letter of May 17, 1960 from the Blaikie firm to Riverside Church confirming the catering arrangements with Riverside Church, including a suggested daily menu with prices, and including an Estimated Annual Budget. As shown in that letter and Estimated Annual Budget, the caterer was available for extra parties, and such parties are included as part of the sales shown on the budget.

5. Hence, in 1960 (and undoubtedly in prior years), the Riverside Church had engaged a caterer to provide necessary food service at Riverside, which service included catering for "parties" and undoubtedly for weddings and other church events, in addition to operating the cafeteria for

employees and guests.

6. Riverside's current congregation is now approximately 2,500 persons. We have not located Riverside membership records from the 1960s, but Riverside's membership was then at least 2,500 and probably more. In 1960 and in prior years Riverside had the same need for catering services for weddings and events as it does now.

7. Riverside Church has thus demonstrated that it was providing a catering firm for food service and events prior to any 1961 zoning law change.


8. Given this history, and also for the reasons set forth in Riverside Church's prior affidavit in opposition to plaintiff's motion to compel production of documents, Riverside Church should not be required to produce documents under plaintiff's subpoena.



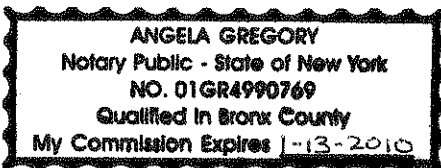
DELBERT GLOVER

Sworn to before me this

^{7th}
~~16th~~ day of July, 2008.



NOTARY PUBLIC



Blaikie Miller & Hines, Inc.

Food Service Management and Consultants

527 MADISON AVENUE, NEW YORK 22, N. Y.
TELEPHONE 8-5440

LETTER OF AGREEMENT

This will serve as an Agreement between The Riverside Church whose principal office is located at 490 Riverside Drive, N. Y., hereafter referred to as OWNER, and Blaikie Miller & Hines, Inc. whose principal office is located at 527 Madison Avenue, New York 22, N. Y., hereafter referred to as CATERER.

1. OWNER grants to CATERER the right of access to the building located at 490 Riverside Drive for the purpose of operating food service facilities for all persons designated by OWNER, at times and under conditions as established by OWNER.

2. The terms of this Agreement shall commence as of Sept. 15, 1960 and shall continue in force until either party terminates the Agreement by sixty days written notice to the other party.

3. OWNER shall furnish for the use of CATERER a completely equipped kitchen and cafeteria area which shall in its entirety remain the property of OWNER, and shall also furnish without charge the utilities necessary to properly operate the food services.

4. OWNER shall maintain the food service premises and equipment at its own expense, save that CATERER shall perform all housekeeping cleaning functions within the kitchen and counter areas with CATERER'S employees.

5. CATERER will assume the complete responsibility for organizing and operating the food service. CATERER will select a trained staff, plan menus, buy, store and prepare all food supplies, obtain all other supplies and services pertaining to food service, and conduct all services in a manner and under conditions subject to the approval of OWNER. All policies, menu prices, qualities of food and services and general routines of CATERER shall be subject to final approval of OWNER.

6. At no time shall any alcoholic, intoxicating or narcotic beverage, food or substance be kept, sold or dispensed in or about the premises by CATERER.

7. All personnel employed by CATERER shall be subject to the approval, examination and standards of OWNER.

8. CATERER shall comply with all applicable provisions of Federal, State and local laws, ordinances and regulations insofar as they pertain to food service within the building.

Blaikie Miller & Hines, Inc.

9. CATERER will in no way use the name of OWNER in making contracts or conducting its business with suppliers. CATERER, his agents and employees shall not act in any way as agents or representatives of OWNER, and nothing contained in this Agreement shall be construed in any manner to imply or create a relationship as partners, joint adventurers or of agency between parties.

10. Upon any termination of this Agreement CATERER shall surrender to OWNER all equipment and furnishings in the food service in the same good order and condition as received, less reasonable wear and tear.

11. Throughout the terms of this Agreement CATERER shall provide and maintain in full force and effect Workmen's Compensation, Comprehensive General Insurance, including Public Liability and Products Liability Insurance with limits of \$100,000.00/\$500,000.00; all of which insurance shall be with companies approved by OWNER who shall be furnished with certificates of this coverage. Cost of this insurance shall be a part of the operating expenses covered in paragraph 12 of this Agreement.

12. CATERER shall maintain separate records of all transactions of income and expenses for this operation so that OWNER may have access to such records for auditing purposes at any time. At the close of each calendar month CATERER shall furnish OWNER with a statement of income and expense for the month, including CATERER'S Management Fee. OWNER will promptly reimburse CATERER the net amount due.

13. As compensation for providing these services CATERER will be paid a Management Fee of \$500.00 per month. In addition, CATERER may earn ten per cent of any sales over \$60,000.00 annually, payable at the end of each 12 month period, only if earned.

14. This Agreement shall not be assigned or in any way transferred by CATERER without prior written consent of OWNER.

A C C E P T E D

May 17th, 1960

By _____ Title

BLAIKIE MILLER & HINES, INC.

Salton R. Miller
By _____ Resident

Topic Blaikie, Miller, and Hines

Meeting_Date 6/9/1960

Description Agreement for catering service approved.

Topic Blaikie, Miller, and Hines

Meeting_Date 5/10/1962

Description Considering terminating contract.

Blaikie Miller & Hines, Inc.

Food Service Management and Consultants

527 MADISON AVENUE, NEW YORK 22, N. Y.
TEMPLETON 8-5440

May 17, 1960.

Mr. Carroll B. Fitch
The Riverside Church
490 Riverside Drive
New York, N. Y.

Dear Mr. Fitch:

We have carefully studied the present food service at The Riverside Church and made estimates of the manner in which we could assume the management responsibilities. We would be pleased to immediately take charge of the Sunday food service commencing May 29, 1960, and continuing through the summer. We would commence six day operation on September 15, 1960, and make the following proposal.

June 12
We would provide an adequate number of employees with proper supervision for the summer Sunday service. In the Fall, a well trained staff would be installed on a permanent basis. Mr. Gordon H. Hines, a Senior Officer of the Company will be in direct charge of this food service, aided by Mr. Ralph Ghist our area Supervisor. Our home office, our Commissary and all our organization located in New York City will be at your disposal.

We would closely plan and direct excellent menus, high quality food preparation and appealing food merchandising. Suggested Sunday menus and a basic menu pattern are made a part of this report. No changes in prices or policies would be made without prior approval from the Church.

Our staff would buy, store, prepare and serve a wide variety of best quality foods. Maximum purchase discounts would be passed on to you. Much attention would be given to the appearance, atmosphere and presentation of all foods served daily. All employees would be on our payroll and would be subject to your approval.

Daily sales would be for cash which would be deposited in a separate bank account. All sales would be included in a monthly operating statement, a copy of which is forwarded to you each month. All our records are subject to your audit. Charge sales would be

promptly billed after each party is served. These individual statements could be sent directly to the organization involved, or they could be cleared through your business office as you wish. We believe this would be a distinct saving to your business office.

Our monthly Management Fee is \$500.00. We feel that in addition to our monthly fee we would like to earn an incentive for improved management. This would be ten percent of annual sales over \$60,000.00, payable annually, if earned. All phases of our operation would be covered by a Letter of Agreement, copy of which is attached. You will note that you retain complete control over everything we do. The Agreement can be reviewed periodically throughout the year.

In addition we want to stress our complete availability for extra parties. We can give equal attention to carefully budgeted buffets, to formal teas and large, full service dinners. Our commissary and a large organization of more than 500 loyal employees, Department Heads and Supervisors are located in New York City. The Riverside Church would have the immediate attention and service of this organization to cater to every food service requirement.

We are confident we can apply proven methods of inventory control, sparkling food merchandising and highest standards of sanitation to the Church food service. We hope to encourage the use of the cafeteria and have tours through your beautiful modern kitchen. We are ready immediately to make final arrangements and provide excellent food service on May 29th. Thank you for this opportunity to be of service to you.

Sincerely yours,

BIAIKIE MILLER & HINES, INC.,



D. R. Miller
President

DRM/b

SUGGESTED DAILY MENU

THE RIVERSIDE CHURCH

Cream of Tomato Soup with Crackers Cup .10¢ Bowl .20¢
Chilled Fruit Juice .10¢ Fruit Cup .15¢

Roast Turkey with Dressing - Cranberry Sauce
Bread and Butter .80¢

Broiled Frankfurters and Baked Beans
Tossed Green Salad - Bread and Butter .60¢

Grilled Chopped Steak - Potato and Vegetable
Bread and Butter .60¢

CLUB LUNCHEON .75¢

Grilled Chopped Steak - Potato and Fresh Vegetable
Bread and Butter

Choice of Dessert
Coffee - Tea - Sanka

VEGETABLES

Fresh Green Beans .15¢ Buttered Carrots .10¢
Buttered Sliced Beets .10¢ Whipped Potatoes .10¢

SANDWICH SPECIAL .55¢

Cup Cream of Tomato Soup - Sliced Ham on Rye
Coffee - or - Tea

SALADS

Fresh Fruit - Cottage Cheese	.50¢
Roast Beef Platter with Assorted Salad	.75¢

SMALL SALADS

Potato Salad	.15¢	Pear & Cottage Cheese	.15¢
Cole Slaw	.15¢	Pickled Beets	.15¢
Macaroni	.15¢	Cottage Cheese	.10¢

SANDWICHES

(Choice of Bread or Toast)

Roast Beef	.50¢	Sliced Ham	.40¢
Sliced Turkey	.50¢	Egg Salad	.30¢
Corned Beef	.45¢	American Cheese	.25¢
Bologna	.25¢	Cream Cheese	.25¢

DESSERTS

Apple Pie	.15¢	Jello	.10¢
Chocolate Layer Cake	.15¢	Peach Halves	.15¢
Ice Cream	.10¢	Assorted Danish Pastry	.15¢

BEVERAGES

Coffee	.10¢	Tea	.10¢	Milk	.12¢
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ESTIMATED ANNUAL BUDGET

THE RIVERSIDE CHURCH

FOOD SERVICE

SALES:

38 Weeks, Monday-Friday Lunches		
50 Weeks, Sunday Dinner		
50 Weeks, Parties, etc.	\$69,000.00	

% OF
SALES

<u>COST OF SALES</u>	49%	<u>33,810.00</u>	<u>49</u>
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Estimated Gross Operating Profit	-	\$35,190.00	<u>51</u>
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EXPENSES:

Payroll - Chef Steward)	
Salad/Pantry) Mon.-Fri.	
Porter/Dishwasher)	

7 Personnel	24,150.00	35
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Payroll Taxes 8%	1,932.00	3
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Laundry \$324 M-F \$200 Sun	524.00	.8
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Paper & Cleaning Supplies	360.00	.5
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Sundry Expenses	200.00	.3
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Insurances:-

Workmen's Compensation		
Comprehensive Liability		
N.Y. State Disability		
Hospitalization (3 basic employees after 6 months)	1,460.00	2.2

Accounting & Bookkeeping \$85 x 12	1,020.00	1.5
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Management Fee \$500 x 12	<u>6,000.00</u>	<u>8.7</u>
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Estimated Operating Expenses	-	\$35,646.00	<u>52</u>
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